

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 9, 2004

D044696 Jonathan Flores v. Superior Court of San Diego County/Marva Lynn Evans

The court has been informed that petitioner dismissed the underlying superior court case without prejudice on July 22, 2004. The stay issued on July 16, 2004, is vacated, the order to show cause issued on July 23, 2004, is discharged and the petition is dismissed.

D041958 Grant v. Kizy Properties, Inc.

D042188 Grant v. Kizy Properties, Inc.

(Consolidated) The order denying Kizy relief from default is affirmed. The judgment denying Grant a default judgment is reversed. The matter is remanded to the trial court to enter such a judgment. Grant is to recover costs on appeal. Benke, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D043798 In re Marriage of Cabral

Upon written request filed by appellant, the appeal is dismissed.

D041728 People v. Brooks

The judgment is affirmed. Huffman, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D037680 People v. Konow

Upon remand from the California Supreme Court, we "affirm the order of the [San Diego County] Superior Court setting aside the information under [Penal Code] section 995." (*People v. Konow* (2004) 32 Cal.4th 995, 1028.)

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre
Clerk: D.E. Moore

D042279 Jamul Indian Village v. Webb

Cause called on merits. Anthony J. Dain, Esq. argued for appellant. Patrick D. Webb, Esq. argued for respondent. Mr. Dan replied. Cause submitted.

D042282 Kitchens et al. v. Caterpillar, Inc.

Cause called on merits. Kenneth N. Greenfield, Esq. argued for appellant. Douglas Collodel, Esq. argued for respondent. Mr. Greenfield replied. Cause submitted.

D043063 People v. Miller

Cause called on merits. Richard E. Holly, Esq. argued for appellant. Marvin Mizell, Deputy County Counsel argued for respondent. Mr. Holly replied. Cause submitted.

D042914 People v. Brooks

Cause called on merits. Nicholas De Pento, Esq. argued for appellant. Charles Ragland, Deputy Attorney General argued for respondent. Mr. De Pento replied. Cause submitted.

Court recessed at 10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 9, 2004 (Continued)

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre

D043005 People v. Flores

Cause called on merits. Gary R. Nichols, Esq. argued for appellant. Robert Hill, Certified Law Student, argued for respondent. Mr. Nichols replied. Cause to be submitted once Justice McConnell has had a chance to review the oral argument CD.

D042805 People v. Rush

Cause called on merits. Jeffrey A. Needelman, Esq. argued for appellant. Arlene Sevidal, Deputy Attorney General argued for respondent. Mr. Needelman replied. Cause to be submitted once Justice McConnell has had a chance to review the oral argument CD.

Court recessed at 2:15 p.m. until Tuesday, August 10, 2004 at 9 a.m.

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 10, 2004

D042977 People v. Arellano

The petition for rehearing and the request for publication are denied.

Court convened at 9 a.m.

Present: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

Clerk: D.E. Moore

D041941 People v. McGowan

Cause called on merits. Daniel G. Koryn, Esq. argued for appellant. Gil Gonzalez, Deputy Attorney General argued for respondent. Mr. Koryn replied. Cause submitted.

D042870 Bailey et al. v. Teemsma et al.

Cause called on merits. Jerome R. Moe, Esq. argued for appellant. Melissa Woo, Esq. argued for respondent. Mr. Moe replied. Cause submitted.

D043458 Lee, et al. v. Fairbanks Highlands Maintenance Association, et al.

Cause called on merits. Bruce Cornblum, Esq. argued for appellant. Stephen T. Mugglebee, Esq. was present in court for appellant, but did not argue. Louis Ventura, Esq. argued for respondent. Mr. Cornblum replied. Cause submitted.

Court recessed at 10 a.m. until Wednesday, August 11, 2004 at 9 a.m.

D044756 In re Hill on Habeas Corpus

The petition is denied without prejudice to refile in the proper appellate district.

D041547 Gregg et al. v. Baker & McKenzie et al.

The judgment is reversed and the matter is remanded with directions that the trial court vacate its November 14, 2002 order to the extent it granted Baker's motion for summary judgment and to enter a new order denying Baker's motion for summary judgment but granting Baker's alternative motion for summary adjudication consistent with this opinion. Plaintiff's shall recover their costs on appeal. McDonald, J.; I Concur: Aaron, J., I Concur only in the Result: Huffman, Acting P.J.

D044285 In re Cecilia E., a Juvenile

The appeal is dismissed. Haller, J.; We Concur: McConnell, P.J., Aaron, J.

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 11, 2004

D044777 Renee B., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

Carl's request to join in Renee's petition is granted. Renee's petition is denied because Renee has an adequate remedy by appeal. Having denied Carl's petition for writ of supersedeas (D044674) on July 27, 2004, the court denied Renee's request to join in Carl's petition for writ of supersedeas as moot. The stay issued by this court on August 2, 2004 is vacated.

D041384 Gregovich v. Berger et al.

D042962 Gregovich v. Berger et al.

(Consolidated) The judgment is affirmed. The parties are to pay their own costs on appeal. O'Rourke, Acting P.J.; We Concur: Aaron, J., Irion, J.

D042083 Clubb v. Board of Retirement of the San Diego County Employees' Retirement System/County of San Diego

The judgment is affirmed. O'Rourke, J.; We Concur: McDonald, Acting P.J., Aaron, J.

D043885 People v. Boyd

The judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., Irion, J.

D042506 People v. Bonilla

The order awarding credit for time served is reversed. The matter is remanded for computation of actual credit for the periods Bonilla was in local custody and in state prison. It shall award appropriate good conduct credit for the time served in local custody and obtain from the Department of Corrections any information needed to determine entitlement to good conducts credit for time served in state prison. The judgment is otherwise affirmed. McDonald, J.; We Concur: McConnell, P.J., McIntyre, J.

D044627 In re Baumer on Habeas Corpus

The petition is denied.

D044014 Hernandez et al. v. Superior Court of San Diego County/Liddle et al.

At the request of petitioners, the petition for writ of mandate is dismissed.

D044162 In re C.L. et al. Juveniles

The appeal is dismissed. Nares, J.; We Concur: McConnell, P.J., McDonald, J.

D042531 Holmes v. Ministerios De Amistad, Inc.

The judgment is reversed. O'Rourke, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D043362 Diehl v. Konoske et al.

The summary judgment entered in favor of defendant is reversed. Huffman, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald
Clerk: D.E. Moore

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 11, 2004 (Continued)

D043654 In re Williamson on Habeas Corpus

Cause called on merits. Heather Bushman, Deputy Attorney General argued for appellant. Patricia J. Ulibarri, Esq. argued for respondent. Ms. Bushman replied. Cause submitted.

D042622 Golden Eagle Insurance Corporation v. Tudor Insurance Company

Cause called on merits. Brian Zimmerman, Esq. argued for appellant. Glenn M. White, Esq. argued for respondent. Mr. Zimmerman replied. Cause submitted.

Court recessed at 9:30 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices
Alex McDonald and James McIntyre
Clerk: D.E. Moore

D043568 Karimzadeh v. Department of Motor Vehicles

Cause called on merits. Patti Ranger, Deputy Attorney General argued for appellant. Craig Combs, Esq. argued for respondent. Ms. Ranger replied. Cause submitted.

Court adjourned at 1:46 p.m.

**D044812 Junco et al. v. Superior Court of San Diego County/Sheppard Mullin Richter &
Hampton**

The petition is denied.

D044692 In re Hodge on Habeas Corpus

The petition is denied.

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 12, 2004

D044042 In re Giovana H., a Juvenile

Appellants have failed to file a brief. The appeal is dismissed.

D043084 Warburton/Buttner v. The Tunica-Biloxi Tribe of Louisiana

Appeal dismissed. Benke, J.; We Concur: McConnell, P.J., O'Rourke, J.

D044380 In re Marriage of Flores

Pursuant to California Rules of Court, rule 8, the appeal filed May 3, 2004, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5 (a)).

D044818 Vosse v. Bates

The petition is denied.

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 13, 2004

D044030 People v. Labriola

The judgment is affirmed. Haller, J.; We Concur: McConnell, P.J., McIntyre, J.

D043768 People v. Knapp

Upon filing an abandonment of appeal, the appeal is dismissed.

D043590 Majorossy-Lott et al. v. Allstate Insurance Company/Park Point Loma Homeowners Association

D044471 Majorossy-Lott et al. v. Allstate Insurance Company

The order consolidating the above numbered appeals (D043590 and D044471) is vacated. Respondent Park Point Loma Homeowners Association's opposed motion to dismiss appeal number D043590 is granted. The reporter's transcript of March 5, 2004, is the record in D044471. That record is filed this date. The parties are directed to submit a proposed briefing schedule within 10 days of the date of this order.

D042330 Weksler v. Golden Eagle Insurance Corporation

Judgment affirmed. Weksler to pay Golden Eagle's costs incurred on appeal. Haller, J.; We Concur: McConnell, J., McIntyre, J.

D041461 Dunnum v. Eastman et al.

The judgment entered in favor of Eastman is reversed. The judgment entered in favor of Revere is affirmed. Benke, Acting P.J.; Haller, J., McDonald, J.

D043382 Phan v. San Diego County Health & Human Services Agency

Affirmed. Haller, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D041952 Haist v. Rohr Inc., et al.

The matter is remanded to the trial court with directions to (1) vacate the order denying JNOV and to enter a new order granting in part defendants' posttrial motion with regard to punitives and denying it in all other respects, and (2) to correct the judgment on special verdict nunc pro tunc to include the special verdict on question 5 regarding malice. The judgment as modified is reversed regarding punitive damages and affirmed in all other respects. Huffman, J.; We Concur: McConnell, P.J., McIntyre, J.

D043552 People v. Camacho

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., McDonald, J.

D044132 People v. Gonzalez

Upon filing an abandonment of appeal, the appeal is dismissed.

D044670 Jeffrey C. v. Superior Court of the County of San Diego/San Diego County Health and Human Services Agency

The attorney for petitioner Jeffrey C. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is dismissed.

FOURTH APPELLATE DISTRICT
DIVISION ONE
AUGUST 13, 2004
(Continued)

D044749 In re Larson on Habeas Corpus

The petition is denied.

D043788 In re Antwione E. et al., Juveniles

The judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., Haller, J.